

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**KENNETH DEYAPP, as parent
and next of friend of CRYSTAL DEYAPP,**

Plaintiff,

v.

NO. CIV 02-0452 JP/RLP

**FARMINGTON POLICE OFFICER TAFT TRACY,
FARMINGTON POLICE CHIEF MARK MCCLOSKEY,
and CITY OF FARMINGTON,**

Defendants.

Consolidated with,

JUNIOR JUAREZ,

Plaintiff,

v.

NO. CIV 02-0453 JP/RLP

**FARMINGTON POLICE OFFICER TAFT TRACY,
FARMINGTON POLICE CHIEF MARK MCCLOSKEY,
and CITY OF FARMINGTON,**

Defendants.

Kevin Martinez, attorney for Junior Juarez and Joe Romero, attorney for Crystal Deyapp
respectfully tender the following proposed Voi Dire Questions for this Court's review.

PROPOSED VOI DIRE QUESTIONS AND TOPICS

1. POLICE IN THE FAMILY OR AS FRIENDS

- a. Make it difficult for you to find against a Police Officer or Police Department
- b. Would you believe a police officer more than someone who is not in uniform
- c. How many believe that police officers never lie or stretch the truth
- d. When might they lie or stretch the truth?
- e. Who polices police officers?
- f. Should police be able to investigate their own shootings?

- g. Do police officers stick together?
- h. Should relatives be involved in the investigation of a police shooting?
- i. When should a police officer be allowed to fire their weapons at someone
- j. Should we stay out of reviewing their decisions to shoot? Should we not second guess their judgment? Should we always agree?
- k. What if they make decisions in seconds- should we second guess those decisions?
- l. Why do we train officers?
- m. Should we allow people without training to act as our police officers?
- n. Why not?
- o. Would you have the courage to tell a police officer that you disagree with the decision to shoot someone.
- p. Should we allow or prohibit an officer to shoot and ask questions later?
- q. Any of you trained in police procedures or tactics?
- r. Any family members who are police, or who are trained in such police procedures and tactics?

2. **DEATH PENALTY?**

- a. How many of you believe in the death penalty?
- b. Under what circumstances should we as a society be willing to use the death penalty.
 - i. For what types of crimes.
 - ii. Under what circumstances
 - (1) fighting?
 - (2) Running from the police?

3. **GUN CONTROL**

- a. How do you feel about gun control?
- b. Should we have more or less
- c. Should police officers possess?
- d. Should citizens possess?

4. **PREJUDICE**

- a. There are some cases that I am not qualified to accept - should I tell the potential client that I am not qualified or I am prejudiced against their case. Do you think that is the right thing to do?
- b. Would you feel comfortable telling me and my client that there is something that makes you not qualified or prejudiced against my case. Do you think that is the right thing to do?
- c. MY CLIENT
 - i. Looking at him, how many of you believe that he is the type of person

that:

- (1) You cannot believe
- (2) That he looks like a criminal
- (3) That would be the type that a police officer might want to shoot
- (4) That not matter what the evidence, you just cannot find yourself ruling in his favor?

d. **MR. ROMERO'S CLIENT**

i. Looking at her, how many of you believe that she is the type of person that:

- (1) You cannot believe her
- (2) That she looks like a criminal
- (3) That would be the type of person that a police officer might want to shoot
- (4) That no matter what the evidence, you just cannot find yourself ruling in her favor

e. **ME**

- i. Looking at me, is there something that you do not like about me?
Something that you would hold against my client as his lawyer.
- ii. Something about how I dress or speak?

f. **JOE ROMERO**

- i. Looking at him, is there something that you do not like? Something that you would hold against his client or my client?
- ii. Something about how he dresses or handles himself?

g. **LOW RIDERS**

- i. How many of you believe that anyone in a low rider is a low life?
- ii. Knowing that a low rider vehicle might be involved, does that make you feel that you would be less likely to believe someone that drives a low rider?
- iii. Is driving a low rider something that tells you that a person is a criminal?

h. **LAWYERS IN GENERAL**

- i. Do you have a prejudice against lawyers in general?
- ii. What does it stem from?
- iii. Have you had a bad experience with a lawyer before?

5. **SKILL AT TESTIFYING**

- a. If someone testifies in court as part of their job does that make them more believable?
- b. They will appear more comfortable, does that make them more believable?
- c. What if someone has not testified in court, are they less believable?
- d. They are nervous - does that make them less believable?

6. **REACTIONS OF PARTIES DURING TESTIMONY:**

- a. How should my client behave during the testimony of the witnesses?
- b. What if he does not react? How will that make you feel?

7. **BIAS AGAINST THE COURT SYSTEM - OUR SYSTEM OF JUSTICE**

- a. Do any of you believe that there are too many lawsuits?
- b. Should we prevent people from settling their disputes in the Courts?
- c. Should we prevent jurors like yourselves from making a decision as to whether an officer acted properly or not?
- d. Cynicism directed towards civil litigants, or bias against civil litigants in general and specifically against plaintiffs involving police misconduct claims.

8. **PUNITIVE DAMAGES - DAMAGES TO MAKE SURE THAT THIS DOES NOT HAPPEN AGAIN.**

- a. Do you feel that you would not be able to assess punitive damages under any circumstances?
- b. If not why not?
- c. Do you believe that this can be a tool to prevent conduct from happening again?
- d. Would you have the courage to award punitive damages against a police officer?

9. **HOW IMPORTANT ARE CONSTITUTIONAL RIGHTS?**

- a. Are they just stuff for lawyers and judges to talk about or are they real for you?
- b. Are they important to you?
- c. Should we pay someone who has lost or had their constitutional right taken away from them?
- d. What are the costs that we as a society have paid to keep and protect these constitutional rights?

10. **OTHER JURORS**

- a. As you look around are there some jurors that you recognize?
- b. As you look around are there any parties that you recognize?
- c. As you look around do you recognize any of the lawyers?

- d. Have you heard anything, read anything or seen anything on T.V. about this incident?

Respectfully submitted,

Electronically filed

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And

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I hereby certify that a true and correct copy of the foregoing pleading was emailed on March 2, 2005 and hand delivered to Luis Robles on March 3, 2005.

Electronically filed

Kevin Martinez.